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Backed Certificates, Series 2004-7*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

THE BANK OF NEW YORK MELLON F/K/A
THE BANK OF NEW YORK, AS TRUSTEE
FOR THE CERTIFICATEHOLDERS OF THE
CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2004-7,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC;
MONTAGNE MARRON COMMUNITY
ASSOCIATION; and ALESSI & KOENIG,
LLC,

Defendants.

SFR INVESTMENTS POOL 1, LLC,

Counter/Cross Claimant,

vs.

THE BANK OF NEW YORK MELLON F/K/A
THE BANK OF NEW YORK AS TRUSTEE
FOR THE CERTIFICATEHOLDERS OF THE
CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES 2004-7; and JOHN
EDWARD BOSTAPH, JR., individual,

Counter/Cross Defendants.

Case No.: 2:16-cv-00847-GMN-CWH

**STIPULATION AND ORDER RE:
SECOND AMENDED NOTICE OF RULE
30(b)(6) DEPOSITION OF THE BANK OF
NEW YORK MELLON F/K/A THE BANK
OF NEW YORK, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE
CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2004-7**

1 Plaintiff and counter-defendant The Bank of New York Mellon f/k/a The Bank of New York,
2 as Trustee for the Certificateholders of the CWABS, Inc. Asset-Backed Certificates, Series 2004-7
3 (**BoNYM**) and defendant, counter- and cross-claimant SFR Investments Pool 1, LLC stipulate as
4 follows:

5 1. SFR served a notice of Rule 30(b)(6) deposition continuing 13 topics on BoNYM on
6 January 23, 2018. The deposition is scheduled for February 27, 2018.

7 2. SFR served a substantially similar notice of Rule 30(b)(6) deposition on Bank of
8 America, N.A. (**BANA**) in *Bank of Am., N.A. v. Falcon Pointe Ass'n et al*, D. Nev. Case. No. 2:16-
9 cv-00814-GMN-CWH, last December. BANA, through Akerman LLP (who also represents
10 BoNYM in this case) initially disputed seven of the thirteen noticed topics: (1) **topic 5**, which seeks
11 information concerning BANA's alleged damages; (2) **topic 6**, which seeks information concerning
12 what investigation, if any, BANA made into title or encumbrances before acquiring an interest in the
13 deed of trust; (3) **topic 7**, which seeks information concerning what investigation, if any, BANA
14 made into title or encumbrances before the HOA's foreclosure sale; (4) **topic 8**, which seeks
15 information concerning BANA's acquisition of its interest in the note and deed of trust; (5) **topic 9**,
16 which seeks information concerning BANA's "knowledge regarding creation, execution and
17 recording" of the recorded assignment(s); (6) **topic 11**, which seeks information concerning BANA's
18 communications with its "predecessor in interest" regarding the HOA's CC&Rs "and title or
19 encumbrances;" and (7) **topic 12**, which seeks information concerning "[a]ll facts and circumstances
20 in which [BANA] contend[s] that [the HOA] and its foreclosure agent failed to comply" with NRS
21 chapter 116 in conducting the foreclosure sale (collectively, the **disputed topics**).

22 3. BANA and SFR met and conferred concerning the disputed topics pursuant to L.R.
23 26-7 in connection SFR's deposition notice in *Falcon Pointe*. SFR agreed to limit or withdraw four
24 of the seven disputed topics based on the meet and confer. To avoid unnecessary fees and costs,
25 BoNYM and SFR stipulate to apply the agreement BANA and SFR reached in the *Falcon Pointe*
26 meet and confer to SFR's notice of deposition in this case as set forth below:

27 a. **Topic 6:** SFR's inquiry into topic 6 shall be limited to investigations into title
28 that revealed Montagne Marron Community Association's lien.

1 b. **Topic 7:** SFR's inquiry into topic 7 shall be limited to investigations into title
2 that revealed Montagne Marron Community Association's lien and/or foreclosure notices.

3 c. **Topic 11:** SFR's inquiry into topic 11 shall be limited to communications
4 between BANA and its "predecessor in interest" regarding Montagne Marron Community
5 Association's foreclosure notices, CC&Rs and lien.

6 d. **Topic 12:** SFR has already or will seek the information it seeks to obtain
7 through deposition topic 12 via an interrogatory. BoNYM agrees to substantively respond to SFR's
8 interrogatory subject to any written objections. SFR will withdraw deposition topic 12 when
9 BoNYM serves its interrogatory response.

10 4. BANA and SFR were unable to resolve their dispute concerning the remaining three
11 disputed topics (*i.e.*, topics 5, 8 and 9) during their *Falcon Pointe* meet and confer but, to avoid
12 litigation costs and unnecessarily burdening the Court with substantially-similar motions for
13 protective order, agreed BANA would file only one motion per judicial combination (*e.g.*, BANA
14 would file a motion in *Falcon Pointe*, but would not file one in other cases assigned to Judges
15 Navarro and Hoffman in which SFR served a deposition notice on BANA containing these same
16 three topics), and the parties will apply the Court's ruling in other similarly-situated cases. BANA
17 moved for a protective order in *Falcon Pointe* on January 24, 2018. The motion remains pending.

18 5. Pursuant to the agreement reached in the *Falcon Pointe* meet and confer, BoNYM
19 and SFR agree the Court's order on BANA's motion for protective order in *Falcon Pointe*, D. Nev.
20 Case No. 2:16-cv-00814-GMN-CWH, ECF No. 93, shall apply to SFR's notice of deposition in this
21 case. SFR further stipulates BoNYM's deposition in this case is stayed as to all topics pending the
22 Court's ruling on BANA's motion for protective order in *Falcon Pointe*. SFR and BoNYM will
23 confer about a mutually-agreeable deposition date once an order enters in *Falcon Pointe*.

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6. BoNYM and SFR jointly request the Court approve this stipulation as an order of the Court.

This the 23rd day of February, 2018.

This the 23rd day of February, 2018.

AKERMAN LLP

KIM GILBERT EBRON

/s/ Darren T. Brenner, Esq.

/s/ Diana S. Ebron, Esq.

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Attorneys for defendant, counter- and cross-claimant SFR Investments Pool 1, LLC

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: February 28, 2018

CERTIFICATE OF SERVICE

I certify on this 23rd day of February, 2018, pursuant to Fed. R. Civ. P. 5, I filed and served the foregoing **STIPULATION AND ORDER RE: SECOND AMENDED NOTICE OF RULE 30(b)(6) DEPOSITION OF THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2004-7** via the Court's CM/ECF system on the following:

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